

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER:00-0077P
Use Tax
Calendar Years 1994, 1995, 1996

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on July 22, 1999.

Taxpayer is a Delaware corporation that was previously audited on December 1, 1994. At audit, the taxpayer was assessed use tax on clearly taxable expense and capital items that were issues in a prior audit.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in failing to remit use tax due.

Taxpayer failed to remit use tax on clearly taxable items and remitted 80%, 88%, and 87% in use tax for calendar years 1994, 1995, and 1996 respectively.

Taxpayer states that it has had excellent procedures and controls of the accounting and reporting systems in place since 1994 and the condition of its supporting documentation and compliance work

papers are excellent. It has timely filed payments for all monthly sales and use tax due, gave the auditor complete cooperation throughout the audit, and most of the assessment resulted from compliance errors due to reorganization of the company and lack of personnel, the errors and procedures which have since been rectified.

Department records indicate the taxpayer's penalty was waived in the prior audit dated December 1, 1994 but the taxpayer failed to make the necessary corrections for the years in the current audit period. The items assessed at audit were issues in a prior audit. In addition, taxpayer has not provided reasonable cause for failing to self assess tax.

FINDING

Taxpayer's protest is denied.